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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,369	01/27/2004	Larry D. McKenna	GLOB-0001	1579
27964	7590	11/18/2005	EXAMINER	
HITT GAINES P.C. P.O. BOX 832570 RICHARDSON, TX 75083			ALI, MOHAMMAD M	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,369

Applicant(s)

MCKENNA, LARRY D.

Examiner

Mohammad Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1 Claims 1, 3, 4-7, and 10, 12-16 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent 6,438,977 to McKay. McKay discloses applicant's basic inventive concept, a pre-cooling system for use with a condenser unit of an air conditioner, comprising a housing (36) coupled to a top (38 and 16) of a condenser (14, FIG. 3) of an air conditioner (10), said condenser having a substantially vertical exhaust (26 and 28, FIG. 3), a valve (40) mounted in said housing and coupled to a water source (44), said valve capable of operating independently of electrical power (col. 2, lines 12-26) due to the fact that it comprises a vane (70, FIG. 3) coupled (50, FIG. 3) to said valve and positionable in said substantially vertical exhaust (see FIG. 3), said pre-cooling system further comprising a water supply tube (42) coupled to said valve and coupleable to said water source, a spray nozzle (32) in fluid communication with said valve and spray tubing (30) interposed said valve and said spray nozzle. McKay's damper/paddle is of an aerodynamically shaped. (it can compared to a similar shape of an aerodynamically shaped 15 air damper blade 3 of McCabe (4,655,122) .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKay in view of McCabe (4,655,122) and Camming et al., (3,783,769). McKay discloses the invention substantially as claimed with the exception of stating that said vane comprises an aerodynamically shaped cross section useable to operate said valve, wherein said aerodynamically-shaped cross section has a leading edge and a trailing edge, and wherein said leading edge is substantially thicker than said trailing edge, wherein said aerodynamically-shaped cross section has an upper surface and an undersurface and wherein said upper surface is shaped cross section has an upper surface and an undersurface and wherein said upper surface is longer than said undersurface and wherein said vane has a concave undersurface. McCabe teaches the use of an aerodynamically shaped 15 blade 3 (see Fig. 4, col.4, lines 41-47) for a damper blade in an air passage for the purpose of lifting the blade aerodynamic

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efficiency. Caming et al., teach the use of a damper with streamlined blades 5 to be used in an aerodynamic center of pressure in an air passage for lifting of the blades with aerodynamic efficiency. Caming et al., also teach a thicker leading edge (at the center of pivot) is thicker than the trailing edge and convex surface. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of McCabe and Caming et al., to modify the system of McKay, by having a vane comprising an aerodynamically shaped cross section useable to operate a valve in order to reduce the variation in pressure across the bend area of the runner where the valve stem extends and enable the smooth control of the coupled valve.


Response to Arguments

Applicant's arguments filed 10/10/05 have been fully considered but they are not persuasive. The Applicant argues, "McKay fails to teaches and suggests that a paddle 70 is coupled to valve housing 36 using a cam 60." The Examiner disagrees. However, for better understanding Examiner withdraws the previous rejections and executed the further rejections as stated above in face of finding new prior arts and new ground of rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is (571) 272-4806. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner can be reached on (571) 272-4709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Mohammad M. Ali
November 14, 2005